

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANTHONY E. VAUGHN,

Petitioner,

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PATRICK GLEBE.

## Respondent.

CASE NO. C15-5202 BHS-DWC

## REPORT AND RECOMMENDATION

NOTED FOR:  
MAY 29, 2015

The District Court has referred this 28 U.S.C. § 2254 petition for a writ of habeas corpus to United States Magistrate Judge David W. Christel. Before the Court is Petitioner's motion to proceed *in forma pauperis*.

The right to proceed in forma pauperis is not absolute. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). Proceeding *in forma pauperis* is a matter within the sound discretion of the trial court in civil actions. *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963). Here, Petitioner provides his prison trust account summary showing an average spendable balance of forty-one

1 dollars and eighty-eight cents (\$41.88). Dkt. 3. Petitioner can afford to pay the five dollar filing  
2 fee. Accordingly, the Court recommends denial of the motion to proceed in forma pauperis.

3 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have  
4 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.  
5 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *See*  
6 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the  
7 clerk is directed to set the matter for consideration on May 29, 2015, as noted in the caption.

8 Dated this 24<sup>th</sup> day of April, 2015.

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12 David W. Christel  
13 United States Magistrate Judge  
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